Constitutional Bench Update

Sameena Begum vs. Union of India

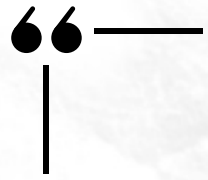## Constitutional Validity Of Muslim Marriage Law

SWIPE

Bench:
Justices Indira Banerjee, Hemant Gupta, Surya Kant, MM Sundresh, Sudhanshu Dhulia

Case Registered on:
March 16, 2018

Last Date of Hearing:
August 30, 2022

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Background:

The Petitioner Sameena Begum was divorced through triple talaq by her first husband. She filed a complaint against him under Section 498A of the Indian Penal Code, 1860. Her second marriage also ended when she was given triple talaq over the phone.

The petitioner filed a PIL to quash the practices of polygamy including Nikah Halala, Nikah Mutah and Nikah Misyar.

PILs were also filed by Muslim Women's Resistance Committee and BJP leader Ashwini Kumar Upadhyay claiming the practices in question discriminatory on the basis of gender, thereby violating Articles 14, 15 and 21 of the Constitution.

The petitioner referred to Shayara Bano v. Union of India (MANU/SC/1031/2017), wherein Supreme Court has held that triple talaq is unconstitutional as it was discriminatory against Muslim Women, and struck down Section 2 of the Muslim Personal Law (Shariat) Application Act, 1937 insofar as it applies to triple talaq.

She further referred to Suo Moto Writ petition registered by the Supreme Court in 2015 to consider gender discrimination suffered by Muslim women.

Issues under Consideration:

- Whether Section 2 of Muslim Personal Law (Shariat) Application Act, 1937 is discriminatory against women and violates right to equality as mentioned under Articles 14 and 15 of Constitution?

- Whether Section 2 of Muslim Personal Law (Shariat) Application Act, 1937 violates women's fundamental right to dignity flowing from Article 21 of the Constitution?

- Whether talaq-e-biddat, nikah halala and polygamy ought to be criminalized under Sections 498A, 375 and 494 of the Indian Penal Code, 1860, respectively?